IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9183 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JADEJA BHUPENDASINHJI GAJSIHJI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 9183 of 2002

MR PRATAPSINH RATHOD for Petitioner No. 1

MR MR MENGDEY A.G.P. for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 10/09/2004

ORAL JUDGEMENT

1.1. Rule. Mr. M.R. Mengdey learned A.G.P. waives service of rule on behalf of the respondents.

2.0. The petitioner by way of this petition has challenged the order dated 1st July, 2002 below Exh. 203 in Civil Suit No. 99 of 1966, passed by the learned Civil Judge (S.D.) at Anjar (Kutch), at annexure-B to the petition, whereby, the application for appointing the Court Commissioner was rejected.

2.1. Mr. Rathod learned advocate appearing for the petitioner does not press this petition qua prayers 4 (C) (D) & (E).

3.0. Heard the learned advocate for the respective parties and perusedthe relevant record.

3.1. Looking to the facts of the present case, and especially in view of the fact that without the Court Commissioner is appointed and report is submitted by the Court commissioner, the Trial Court will not be able to pass any final order, I am inclined to grant prayer in terms of para 4 (B). Accordingly, it is, directed that the Trial Court shall appoint a Court Commissioner to complete the proceedings of the preliminary decree drawn by the Trial Court on 28th February, 1978. The said exercise shall be carried out as early as possible.

3.0. In the result, the petition is partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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